

October 23, 2000

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON APPEAL OF SUPPLEMENTAL NOTICE AND ORDER

SUBJECT: Department of Development and Environmental Services File No. **E9900061B**

BLOCKBUSTER, INC.
Code Enforcement Appeal

Location of Violation: 4560 (aka 4506) Klahanie Drive Southeast

Appellant: Blockbuster Video
1011 SW Klickitat Way #C-107
Seattle, WA 98134

represented by **Steve Zamberlin**
National Sign Corporation
1255 Westlake Avenue North
Seattle, WA 98109

Intervenors: Parks & Ginger Anderson,
represented by **Ginger Anderson**
4617 – 252nd Avenue SE
Issaquah, WA 98027

Klahanie Homeowners Association,
represented by **Seyed Safavin**
P.O. Box 1
Issaquah, WA 98027

King County: Department of Development and Environmental Services
Building Services Division, Code Enforcement Section
represented by **Jeri Breazeal**
900 Oakesdale Avenue Southeast, Renton, WA 98055-1219
Telephone: (206) 296-7264 Facsimile: (206) 296-6604

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:
Department's Final Recommendation:
Examiner's Decision:

Deny the appeal
Deny the appeal
Deny the appeal

EXAMINER PROCEEDINGS:

Hearing Opened: October 18, 2000
Hearing Closed: October 18, 2000

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Commercial signs—height and location
- Notice and order—permit modification

SUMMARY:

The code enforcement appeal is denied.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On August 9, 2000, a supplemental notice and order was issued to Hogate/Klahanie LLC, Claremont Development Company and Blockbuster, Inc., citing the Blockbuster commercial leasehold for placement of signage on the north side of the building at a height exceeding 10 feet and the construction of a monument sign near the northwest corner of the site between the building and Klahanie Drive. The supplemental notice and order alleges that these on-premises signs violate the rezone conditions applicable to the property adopted by the King County Council under authority of Ordinance No. 10996.

The supplemental notice and order supersedes an original notice and order issued on February 16, 2000 and differs from the earlier document in that it seeks to modify building Permit No. B98A3924. The supplemental notice and order asserts that “Permit B98A3924 was issued in error insofar as it authorized an excess number of wall signs and the construction of a monument sign in violation of the rezone conditions set forth above”.

2. Steve Zamberlin of National Sign Corp., the sign installation contractor, has appealed the supplemental notice and order on behalf of Blockbuster. His appeal asserts that the signage was installed in conformity with the original sign building permit issued by DDES and the signs comply with the rezone conditions.

3. Under authority of Ordinance No. 10996, the King County Council adopted a rezone recommendation dated July 28, 1993 imposing strict on-site signage conditions on commercial tenants within the Klahanie Commercial Center. Condition No. 28 of the rezone decision requires that “no building-mounted sign on-site shall extend above 10 feet finished grade or the building façade (wall), whichever is less”. Condition No. 29 outlines the circumstances under which freestanding single-user buildings may install monument signs and states that “a maximum of three single-user building monument signs along Klahanie Drive Southeast shall be permitted”.
4. As shown within the building permit drawing, the Blockbuster sign on the north side of the Pad B leasehold building is approximately 38 feet long with the words “Blockbuster Video” in 24-inch illuminated letters flanked at either end by the Blockbuster ticket-stub logo.

The only portions of the sign display that exceed 10 feet in height are the upper right hand corners of the two ticket-stub logos, which are tilted upward and reach a maximum height of 11’4”. This fairly large commercial sign directly faces residential condominiums located north of the Commercial Center that have an unimpeded view of the sign across a parking lot at a distance of approximately 300 feet. This wall sign is also visible at an angle from condominiums located west and slightly north of Pad B across Klahanie Drive at a distance in excess of 200 feet.

5. The building monument sign also can be seen from the residential condominiums west of Klahanie Drive. At the time of building permit issuance for this sign, Blockbuster was the only commercial tenant within Pad B, and Mr. Zamberlin incorrectly represented its status as being the occupant of a single-user building. The tenant improvement permit issued to Blockbuster approximately a month before the sign permit indicates, however, that Blockbuster expected to occupy only 5,000 square feet of the 7,000 square foot building, and in fact two further commercial tenants now occupy the small spaces at the south end of the complex.
6. DDES staff has agreed that the sign on the north side of the Blockbuster building can comply with the rezone requirements if the two end logos are lowered to the 10-foot maximum height level. Staff has also agreed that removal of the monument sign cabinet is sufficient to comply with the notice and order and that the sign foundation need not be removed.

CONCLUSIONS:

1. With respect to the sign on the north side of the building, a deviation from the 10-foot height limitation in the amount of 16 inches fails to effect substantial compliance with Rezone Condition No. 28. Since the sign is directly visible from off-site residential locations, the record offers no obvious basis for concluding that this deviation is without adverse impact. Therefore, those portions of the northern wall sign that exceed 10 feet in height will need to be lowered to meet the 10-foot standard.

2. The requirement with Rezone Condition No. 29 that a “maximum of three single-user building monument signs along Klahanie Drive Southeast shall be permitted” implicitly excludes approval of building monument signs for multiple-user buildings. Since Pad B was misrepresented to the DDES permit technician as a single-user building, the permit for the monument sign was both issued in error and on the basis of materially incorrect information.
3. The Appellant has failed to sustain its burden of proof to demonstrate that the violations cited in the supplemental notice and order have not occurred. The record also supports modification of building Permit B98A3924 in a manner consistent with the findings and conclusions contained herein.

DECISION:

The appeal is DENIED.

ORDER:

No penalties shall be incurred if the Appellant performs both the following actions within 60 days of the date of this order:

1. Removes the sign located on the north side wall of the Blockbuster building, or modifies it so that all parts of the sign display are no higher than 10 feet above finished grade or the building façade (wall), whichever is less; and,
2. Removes the freestanding Blockbuster sign cabinet from its monument foundation.

ORDERED this 23rd day of October, 2000.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 23rd day of October, 2000, by certified mailing to the following party:

Steve Zamberlin
National Sign Corporation
1255 Westlake Avenue North
Seattle, WA 98109

TRANSMITTED this 23rd day of October, 2000, to the following parties and interested persons:

Parks & Ginger Anderson
4617 - 252nd Avenue SE
Issaquah WA 98027

Blockbuster, Inc.
1011 SW Klickitat Way #C-107
Seattle WA 98134
Bellevue WA 98004

Phil Davidson
Claremont Development Co.
515 - 116th Avenue NE #108

Alan Ferin
Hogate/Klahanie LLC
1017 Minor Avenue #1001
Seattle WA 98104

Seyed Safavin
Klahanie Homeowners Association
P. O. Box 1
Issaquah WA 98027

Steve Zamberlin
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Code Enforcement Section
MS OAK-DE-0100

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Roger Bruckshen
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Code Enforcement Section
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Elizabeth Deraitus
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Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE OCTOBER 18, 2000 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E9900061B – BLOCKBUSTER, INC.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Jeri Breazeal and John Briggs of the King County Prosecuting Attorney's Office. Participating in the hearing and representing the Appellant was Steve Zamberlin. Participating in this hearing and acting as Intervenor was Ginger Anderson, representing herself and husband Parks Anderson. There were no other participants in this hearing.

The following exhibits were offered and entered into the record:

Exhibit No. 1	DDES staff report to the Hearing Examiner, dated October 18, 2000
Exhibit No. 2	Notice & Order, issued February 16, 2000
Exhibit No. 3	Appeal Statement, received March 30, 2000
Exhibit No. 4	Supplemental Notice & Order, issued August 9, 2000
Exhibit No. 5	November 3, 1999 letter sent to Blockbuster, Inc.
Exhibit No. 6	Approved sign permit B98A3924
Exhibit No. 7	Sections of plans from tenant improvement permits B98A3439
Exhibit No. 8	Examiner's Pre-Hearing Order, dated August 3, 2000
Exhibit No. 9a.	Color copies of photographs
Exhibit No. 9b.	Color copies of photographs
Exhibit No. 10	Rezone conditions
Exhibit No. 11	Site Plan

SLS:sje

